

(paragraph (e)(2)(i) of this section), except that the participant elects to receive his benefit as a 50% joint-and-survivor annuity. Before plan termination, the participant was receiving a total benefit of \$1,777: His \$1,530 accrued benefit, reduced by 10% for the survivor benefit, plus the \$400 temporary supplement. From the termination date until the participant reaches age 62, PBGC will guarantee \$1,500: The \$1,500 accrued benefit (as a straight-life annuity) as of the bankruptcy filing date, reduced to \$1,350 to reflect the 10% reduction for the survivor benefit, plus \$150 of the temporary supplement that, in combination with the \$1,350, does not exceed the \$1,500 accrued-at-normal limit. When the participant reaches age 62, his guaranteed benefit is reduced to \$1,350, because under plan provisions the temporary supplement ceases at that time.

[61 FR 34028, July 1, 1996, as amended at 67 FR 16956, Apr. 8, 2002; 76 FR 34602, June 14, 2011]

§ 4022.22 Maximum guaranteeable benefit.

(a) *In general.* Subject to section 4022B of ERISA and part 4022B of this chapter, and except as provided in paragraph (b) of this section, benefits payable with respect to a participant under a plan shall be guaranteed only to the extent that such benefits do not exceed the actuarial value of a benefit in the form of a life annuity payable in monthly installments, commencing at age 65, equal to the lesser of—

(1) One-twelfth of the participant's average annual gross income from his employer during either his highest-paid five consecutive calendar years in which he was an active participant under the plan, or if he was not an active participant throughout the entire such period, the lesser number of calendar years within that period in which he was an active participant under the plan; or

(2) \$750 multiplied by the fraction $x/13,200$ where “x” is the Social Security contribution and benefit base determined under section 230 of the Social Security Act in effect at the termination date of the plan.

(b) *PPA 2006 bankruptcy termination.* In a PPA 2006 bankruptcy termination—

(1) The five-year period described in paragraph (a)(1) of this section shall not include any calendar years that end after the bankruptcy filing date.

(2) “Bankruptcy filing date” is substituted for “termination date of the plan” in paragraph (a)(2) of this section. Example: A contributing sponsor files a bankruptcy petition in 2007. The sponsor's plan terminates in a distress termination with a termination date in 2008. PBGC will compute participants' maximum guaranteeable benefits based on the amount determined under paragraph (a)(2) for 2007 (\$4,125.00 as a straight-life annuity starting at age 65).

(c) *Gross income.* For purposes of paragraph (a)(1) of this section—

(1) Gross income means “earned income” as defined in section 911(d)(2) of the Code, determined without regard to any community property laws.

(2) If the plan is one to which more than one employer contributes, and during any calendar year the participant received gross income from more than one such contributing employer, then the amounts so received shall be aggregated in determining the participant's gross income for the calendar year.

[76 FR 34602, June 14, 2011]

§ 4022.23 Computation of maximum guaranteeable benefits.

(a) *General.* Where a benefit is payable in any manner other than as a monthly benefit payable for life commencing at age 65, the maximum guaranteeable monthly amount of such benefit shall be computed by applying the applicable factor or factors set forth in paragraphs (c)–(e) of this section to the monthly amount computed under § 4022.22. In the case of a step-down life annuity, the maximum guaranteeable monthly amount of such benefit shall be computed in accordance with paragraph (f) of this section.

(b) *Application of adjustment factors to monthly amount computed under § 4022.22.* (1) Each percentage increase or decrease computed under paragraphs (c), (d), and (e) of this section shall be added to or subtracted from a base of